The meeting was called to order at 10.10 a.m.

Agenda item 85: Report of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization (*continued*) (A/62/33, A/62/124 and Corr.1, A/62/206 and Corr.1; A/C.6/62/L.6)

1. **Mr. Kuzmin** (Russian Federation) said that the Russian Federation attached particular importance to the work of the Special Committee, which was one of the most important forums established by the General Assembly to discuss the Organization's legal problems. At the Special Committee's 2007 session, the Russian Federation had submitted a revised version of its working paper, entitled "Basic conditions and standard criteria for the introduction and implementation of sanctions imposed by the United Nations" (A/AC.182/L.114/Rev.2), taking into account the most recent documents elaborated by the General Assembly and the Security Council. The aim of the working paper was to regulate the basic conditions for the introduction and implementation of sanctions, develop a mechanism for the mitigation of their unintended humanitarian consequences and strengthen the legal basis for the implementation of sanctions by States. A further revised version of the working paper, contained in document A/C.6/62/L.6, had been prepared on the basis of the Special Committee's discussions for possible adoption by the General Assembly as an annex to a resolution. It could thus become an important contribution of the Assembly to the regulation of sanctions regimes. His delegation proposed that a working group of the Sixth Committee should be established for further discussion of the working paper.

2. The Russian Federation also attached great importance to the issue of assistance to third States affected by the application of sanctions. Regrettably, as in previous years, the report of the Secretary-General on the subject (A/62/206 and Corr.1) showed that the Organization had made little effort to deliver such assistance. The report submitted by the Secretary-General at the sixty-first session of the General Assembly (A/61/304) had referred to modalities and procedures relating to international assistance available to third States affected by the implementation of sanctions. However, the only information provided in response to the General Assembly's request for information on those modalities and procedures had related to research carried out in the 1990s. It therefore seemed clear that no such modalities or procedures existed. Moreover, the report submitted at the current session (A/62/206) did not state whether the Secretariat had made the envisaged modifications to the procedure for assessing the humanitarian consequences of sanctions; nor did it provide any information on the outcome of any such modifications. The Special Committee should therefore continue to pay close attention to the issue, and the Secretariat should organize a briefing on it at the Special Committee's next session.

3. The *Repertory of Practice of United Nations Organs* and the *Repertoire of the Practice of the Security Council* were valuable repositories of institutional memory. However, despite the progress made in the publication of volumes of both the *Repertory* and the *Repertoire*, their financing remained a difficult issue. In that connection, the Russian Federation had made a contribution to the trust fund for the updating of the *Repertoire*. With regard to the use of interns and outside experts and cooperation with research institutions in the work on the publications, the Russian Federation realized that such measures were unavoidable but felt that a number of issues should be taken into consideration. The system of involving outside experts and institutions had to be transparent and equitable, and all Member States must have the opportunity to participate. His delegation would like to receive more information on cooperation between States and the Secretariat in that regard. Also, it was important not to forget that the Secretariat bore responsibility for the quality of the two publications. The principles laid down in 1952 regarding work on the *Repertoire* should be strictly adhered to.

4. Lastly, the Russian Federation supported the proposal made by the Dominican Republic on behalf of the Rio Group that a new item entitled "Consideration of the legal aspects of the reform of the United Nations" should be included on the Special Committee's agenda.

5. **Mr. Baghaei Hamaneh** (Islamic Republic of Iran) said that his delegation continued to support the work of the Special Committee, which had made important contributions to the promotion of the purposes and principles of the Charter of the United Nations. The fact that lack of political will on the part of a few States had prevented the Special Committee from fulfilling its mandate should not be allowed to undermine its work. His delegation supported

initiatives aimed at revitalizing the Special Committee and enhancing its efficiency.

6. The maintenance of international peace and security, which was one of the main purposes of the United Nations, was dependent on the fulfilment by Member States, especially the big powers, of the dual obligations to refrain from the threat or use of force and to adhere to pacific means of settlement of disputes. The increasing resort by certain powers to the threat or use of force as an instrument of foreign policy not only jeopardized the basic tenets of Charter-based international law but also posed an unparalleled threat to international peace and security.

7. The Security Council had the primary, but not exclusive, responsibility for the maintenance of international peace and security. It should fully observe the relevant provisions of the Charter and related resolutions regarding the mandate of the General Assembly as the chief deliberative, representative and policymaking organ of the United Nations. The Assembly should play a key role in addressing issues related to the maintenance of international peace and security, and his delegation fully supported the proposals of Cuba in that regard. The work of the Special Committee on enhancing the role of the Assembly in that area was also of the utmost importance. In that context, the Committee should address the issue of the encroachment of the Council on the powers and mandate of the General Assembly.

8. The legitimacy and legality of the Security Council's decisions were to be gauged in terms of their compatibility with the purposes and principles of the United Nations, in accordance with Article 24 of the Charter. In other words, the Security Council did not have boundless discretionary power to impose sanctions on an arbitrary basis. Member States had every right to insist that the Council should keep within the powers accorded to it under the Charter. In practice, however, certain permanent members of the Council had tried on many occasions to use it as a tool for advancing their own political agendas, for example through the application of coercive measures such as economic sanctions. That issue should be addressed on the basis of a thorough discussion of the working paper submitted by the Russian Federation in document A/C.6/62/L.6. His delegation welcomed the proposal to establish a working group for that purpose.

9. The Security Council should be held accountable for the imposition of sanctions on the basis of pure speculation or under political pressure from certain permanent members. States that were the target of unlawfully imposed sanctions should have the right to be fully compensated for any damage caused. In that regard, his delegation supported the revised working paper submitted by the Libyan Arab Jamahiriya on the strengthening of certain principles concerning the impact and application of sanctions (A/AC.182/L.110/Rev.1). Moreover, the International Law Commission should take due account of the issue of the legal consequences of unlawful sanctions in its work on the responsibility of international organizations.

10. The Islamic Republic of Iran was seriously concerned about the unilateral imposition of economic sanctions by some States or a group of States on certain developing countries in an attempt to coerce the latter into submitting to their will. Such unilateral action as an instrument of foreign policy was contrary to international law, international humanitarian law and human rights, particularly the right to development.

11. The proposal made by Belarus and the Russian Federation to request an advisory opinion from the International Court of Justice as to the legal consequences of the resort to the use of force by States without prior authorization by the Security Council highlighted the critical situation caused by frequent resort to unilateral armed force. The Charter prohibited the threat or use of force by Member States in their international relations and provided for the right of self-defence only if an armed attack occurred. Those principles had been reaffirmed in various judgments of the International Court of Justice. Regrettably, however, they had been disregarded by certain powers, which had waged war and attacked other States on the pretext of defending themselves against perceived threats that had never existed. An advisory opinion from the Court could help strengthen the principle of the non-use of force or threat of force. For that reason, his delegation, along with many others, supported the proposal to request such an opinion.

12. Lastly, his delegation commended the Secretariat for its efforts to reduce the backlog in the publication of the *Repertory of Practice of United Nations Organs* and the *Repertoire of the Practice of the Security Council*.

13. **Mr. Muchemi** (Kenya) said that Kenya attached great importance to the work of the Special Committee and was committed to the principle of peaceful settlement of disputes. The imposition of sanctions should be considered only as a last resort when all peaceful means of dispute settlement had been exhausted. His delegation, like many others, was concerned that the work of the Informal Working Group of the Security Council on General Issues of Sanctions had been terminated before the Group had fulfilled its mandate. That step would undoubtedly impact on the Security Council's relationship with other organs of the United Nations and with Member States.

14. The United Nations sanctions regime played a crucial role in the maintenance of peace and security. However, where sanctions became necessary, they should be targeted in support of clear objectives and implemented in a balanced way. There should also be well-defined, fair and transparent criteria and procedures for the imposition, administration and lifting of sanctions, including options for mitigating possible adverse effects.

15. His delegation welcomed the various initiatives adopted with a view to streamlining the sanctions regime, in particular the continued recourse by the Security Council to targeted sanctions. It urged increased use of prior assessment of the likely unintended impact of sanctions, as well as ongoing assessment of actual unintended impact, both on the target State and on affected third States. Enhanced coordination and cooperation between the relevant United Nations organs would greatly help to improve the sanctions regime. Moreover, the Security Council should be broadened by taking into account proposals from Member States that had long been on the table. The sanctions regime was effective only when Member States acted in unison. His delegation therefore encouraged States to avoid acting unilaterally in the imposition of sanctions, as such action would undermine the achievement of the desired effects of sanctions.

16. With regard to the peaceful settlement of disputes, his delegation encouraged the use of existing judicial mechanisms of the United Nations, such as the International Court of Justice.

17. Lastly, his delegation welcomed the conclusions of the report of the Secretary-General on the *Repertory of Practice of United Nations Organs* and the *Repertoire of the Practice of the Security Council* (A/62/124 and Corr.1).

18. **Mr. Al-Sheikh** (Yemen) said that sanctions should always be a last resort and applied in accordance with strict standards. The Russian Federation's revised working paper entitled "Basic conditions and standard criteria for the introduction and implementation of sanctions imposed by the United Nations" was a notable improvement over previous versions and constituted a good jumping off point for discussion. The unilateral imposition of sanctions was a concern. The imposition of sanctions on individuals should be done transparently and on the basis of clear evidence. Many States, including his own, had found themselves unable to find out what their citizens whose names appeared on the sanctions committees' consolidated lists had been accused of. His delegation called for the establishment of new de-listing guidelines.

19. Yemen was committed to the settlement of border issues with its neighbours through peaceful means, in accordance with Article 2, paragraph 3, of the Charter of the United Nations, and it appreciated the role of the International Court of Justice in that regard. It also supported strengthening the role of the General Assembly, which represented all the States Members, in protecting international peace and security where the Security Council was unable to.

20. **Mr. Schenker** (Switzerland) welcomed the progress made in the publication of the *Repertory of Practice of United Nations Organs* and the *Repertoire of the Practice of the Security Council* and expressed support for the recommendations in that regard contained in the report of the Special Committee (A/62/33, para. 56).

21. Switzerland had long been actively involved in discussions on the issue of sanctions and had always argued in favour of targeted and effective sanctions that did not affect civilian populations. Together with Germany and Sweden, it had launched an initiative in 2006 aimed at guaranteeing a fair and transparent procedure for the inclusion of persons and organizations on sanctions lists and for their de-listing. As a result, progress was being made towards greater respect for the rights of targeted persons. In that regard, his delegation welcomed the adoption by the Security Council of resolutions 1730 (2006) and 1735

(2006) and the establishment of a focal point to receive de-listing requests pursuant to resolution 1730 (2006).

22. Nonetheless, further steps should be taken to safeguard the basic principles of the rule of law, and Switzerland intended to continue its activities in that regard. In November 2007, it would be organizing a round table jointly with Denmark, Liechtenstein and Sweden for further discussion of such issues. Many of the proposals in the revised working paper (A/C.6/62/L.6) were also contained in the document put forward by the "S5" group (Costa Rica, Jordan, Liechtenstein, Singapore and Switzerland) on the working methods of the Security Council.

23. Issues of human rights and international humanitarian law should always be taken into account in decisions relating to sanctions. For that reason, Switzerland attached particular importance to targeted sanctions, so as to minimize the impact on civilian populations. His delegation welcomed the revised working paper, which contained many interesting elements that were in line with Switzerland's own initiatives. Nonetheless, it was vital to avoid weakening the effectiveness of the sanctions regime put in place by the Security Council.

24. **Mr. Falouh** (Syrian Arab Republic) said that his delegation wished to express its extreme concern over the double standards applied in the imposition of sanctions and the enormous escalation of recourse to sanctions that had taken place, so that they had come to be used more than at any time in the past, often distorting the spirit and letter of the Charter.

25. Recourse to sanctions was permissible under Chapter VII of the Charter of the United Nations only in specific cases involving a clear violation of the Charter and of international law, and then only after all means available under Chapter VI had been exhausted. The founders of the United Nations had intended that to be the case in order that such sanctions should not prove counterproductive or have other adverse effects, not only with regard to the country against which the sanctions were imposed, but also for third countries that might be adversely affected, directly or indirectly, as a result of them.

26. His delegation welcomed the extremely important paper submitted by the delegation of the Russian Federation, which deserved support and study because it comprised numerous elements that would contribute to the creation of a sanctions regime that was more just and better realized the goals of the Organization.

27. His delegation also supported the proposal submitted by Belarus and the Russian Federation to request a ruling by the International Court of Justice on the legal consequences of the resort to the use of force by States without prior authorization by the Security Council, except in the exercise of the right to self-defence. General support for the proposal had been noted among the members of the Special Committee, with the notable exception of one State.

28. His delegation hoped for a reform of the Security Council in the near future, with expanded membership and greater democracy and transparency in the Council's working methods. It also supported the revitalization of the role of the General Assembly, the Organization's major deliberative, legislative and executive body, to enable it better to perform the tasks entrusted to it by the Charter.

29. **Mr. Malpede** (Argentina) noted that the representative of the United States of America and others had suggested at the previous meeting that the question of unintended economic consequences of sanctions had become an abstract concern following the adoption by the Security Council of resolutions 1730 (2006) and 1735 (2006) and the application of targeted sanctions. While it was true that the sanctions regime had been improved, especially with regard to the procedure for listing and de-listing, his delegation believed that from a legal standpoint much remained to be done, particularly with respect to basic issues relating to due process and the rule of law. The Sixth Committee, as the organ of the General Assembly that dealt with legal matters, could not fail to address those issues. The matter should also be discussed by the Special Committee on the Charter at its next session.

30. **The Chairman** invited the Committee to consider the proposal by the Russian Federation that its revised working paper (A/C.6/62/L.6) should be examined by a working group.

31. **Mr. Madureira** (Portugal), speaking on behalf of the European Union, thanked the Russian Federation for the work it had put into the revised working paper. The European Union was greatly concerned with the question of sanctions and had been actively involved in discussions on the issue, both within the United Nations, including during the deliberations of the Special Committee on the Charter and in other forums.

However, the Sixth Committee was already finding it difficult to accommodate all the important issues before it in its programme of work, and taking up the question of sanctions in a working group might leave too little time for the discussion of other crucial issues, in particular that of the administration of justice. Therefore, the European Union could not support the proposal to convene a working group during the present session to discuss the working paper.

32. **Mr. Kuzmin** (Russian Federation) thanked all the delegations that had expressed support for his country's working paper and for its proposal to set up a working group. He had listened carefully to the comments made by the delegate of Portugal on behalf of the European Union and acknowledged that the Sixth Committee had a very heavy agenda. His delegation therefore requested that the Committee consider the possibility of organizing an informal meeting during the current session to discuss the working paper submitted by his Government.

33. **Mr. Eriksen** (Norway) and **Ms. Wilcox** (United States of America) concurred with the statement made by the delegate of Portugal on behalf of the European Union and, while expressing appreciation to the Russian Federation for its efforts in preparing the revised working paper, said that their delegations would need to consult with their respective capitals before they could agree to discuss the paper in either a working group or an informal meeting.

34. **Mr. Lamine** (Algeria), **Mr. Shautsou** (Belarus), **Mr. Wang** Chen (China), **Ms. Negm** (Egypt), **Mr. Medrek** (Morocco), **Mr. Win** (Myanmar), **Mr. Thomas** (Namibia), **Ms. Nworgu** (Nigeria), **Mr. Shah** (Pakistan), and **Mr. Al-Sheikh** (Yemen) supported the idea of holding informal consultations during the present session to discuss the revised working paper on sanctions (A/C.6/62/L.6).

35. *It was so decided.*

The meeting rose at 11.05 a.m.